IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 11189 of 2004

Between:

Smt. D. Vijayalakshmi, W/o. K. Narsimha Murthy,
O/o. the Government Homoeo Dispensary, Santhoshnagar, Hyderabad, R/o. Hyderabad.

..... PETITIONER

AND

1 Government of Andra Pradesh, rep by its Principles Secretary, Medical Health and Family Welfare Department, Secretariat, Hyderabad.
2 The Director, Indian Medicine and Homoepathy Department, OLD MLA Quarters, Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly one in the nature of Writ of Mandamus, calling for the records, pertaining to O.A.Nos. 2799/96 and 5808/1996 and also call for the records pertaining to proceedings contained in No. 14535/M.2/92 dated 12-6-1996 issued by the 2nd respondent and set aside the same as illegal, arbitrary and violative of Articles 14,21 and 311(2) without jurisdiction, opposed to the principles of natural and violative of Articles 14, 11 and 311(2) of the Constitution of India and consequently direct the respondents herein to reinstate the petitioner herein into service as Compounder with all consequential benefits such as arrears of salaries, seniority and promotion etc.

Counsel for the Petitioner:MR.S.SURENDER REDDY

Counsel for the Respondent No.: GP FOR MEDICAL HEALTH &

FAMI.WELFARE

The Court at the admission stage made the following:

ORAL ORDER: (By GB.J.)

The Writ Petition is filed assailing the order passed by the A.P. Administrative Tribunal (for short Tribunal) in OA.Nos.2799 of 1996 and 5808 of 1996 dated 2.9.2003.

2. The employee concerned challenged the order of removal passed by the appropriate authority before the Tribunal. However, the petitioner was not present when the matter reached the Board, the Tribunal considered the matter on merits and dismissed the above O.As. thus upholding the order of dismissal. Against the said dismissal, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that the Tribunal could not have considered the matter on merits when the applicant himself proposed to appear and that on the day when the matter reached the Board, the applicant could not be present. Thus he submits that the order is liable to be set aside.

4. We have also heard the learned G.P. for Services-I.

5. We find from the order of the Tribunal that on account of the absence of the applicant, it has proceeded with the matter on merits and dismissed the same, but the procedure as adopted by the Tribunal cannot be upheld. It is open for the Tribunal to dismiss the O.A. for default if the applicant did not appear, but it could not have proceeded with the case on merits. Thus, we find that the order of the Tribunal is not sustainable. Accordingly it is set aside and the O.As. are remitted back to the Tribunal for fresh consideration after hearing the applicant.

6. Accordingly the Writ Petition is allowed. No costs.

(G.BIKSHAPATHY, J.)

22nd November, 2004.

(P.S.NARAYANA, J.)

SSR